



STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
P.O. Box 11729  
Albany, NY 12211

**Notice of Decision**

Decision Date: December 16, 2014

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000000878

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On September 22, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace’s August 26, 2014 eligibility determination.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of NY State of Health.

If you have questions about your Decision, you can contact us by:

- Calling the Customer Service Center at 1-855-355-5777
- Sending Mail to:  
 NY State of Health Appeals  
 P.O. Box 11729  
 Albany, NY 12211
- Sending a Fax to 1-855-900-5557

When contacting NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification Number at the top of this notice.

**Legal Authority**

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(b).

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY – Spanish: 1-877-662-4886).

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## Decision

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[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

## Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did the Marketplace properly determine that [REDACTED] was eligible for up to \$262.00 per month in advance premium tax credit and cost-sharing reductions as of August 25, 2014?

Did the Marketplace properly determine that [REDACTED] was not eligible for Medicaid as of August 25, 2014?

## Procedural History

The Marketplace received your initial application for health insurance on March 30, 2014.

On August 25, 2014, the Marketplace received your modified application for health insurance. That same day, the Marketplace made a preliminary determination that you were eligible for up to \$262.00 per month in advance premium tax credit.

On that same day, you spoke with the Marketplace's Account Review Unit and appealed that determination.

On August 26, 2014, the Marketplace issued a notice consistent with the preliminary eligibility determination; it stated that you were eligible to enroll in a qualified health plan and that, based on an annual household income of \$22,000.00, you were entitled to up to \$262.00 per month in advance premium

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tax credit. The notice also stated that you were not eligible for Medicaid because the household income you provided of \$22,000.00 was over the allowable income limit of \$16,105.00.

On September 22, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and was closed at the end of the hearing.

## **Findings of Fact**

A review of the record supports the following findings of fact:

- 1) You testified that you plan on filing your 2014 tax return as Single and will claim no dependents on that tax return.
- 2) You testified that your last day of employment was August 8, 2014.
- 3) You testified that your total household income from January 1, 2014 to August 8, 2014 was \$22,000.00.
- 4) You testified that you applied for unemployment after August 8, 2014 but your application was denied because you did not meet the necessary requirements.
- 5) You testified that you made \$1,600.00 in the month of August 2014.
- 6) You testified that you do not have any sources of income. You further testified that you expect your income for the month of September to be \$0.00.
- 7) You testified that you had insurance coverage during your employment but terminated that coverage at the end of August 2014. You further testified that you applied for health insurance through the Marketplace because you cannot currently afford an insurance premium on your current monthly income.
- 8) According to your Marketplace application, you reside in Kings County.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

## Applicable Law and Regulations

The advance premium tax credit (APTC) is available to a person who is eligible to enroll in a qualified health plan and (1) expects to have a household income between 138% and 400% of the 2013 federal poverty level; (2) expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a qualified health plan; and (3) is not otherwise eligible for minimum essential coverage except through the individual market (see 45 CFR § 155.305(f), 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

The maximum amount of APTC that can be authorized equals

- 1) the cost of the health insurance premium for the taxpayer's coverage family in the second lowest cost silver plan offered through the NY State of Health in the county where the taxpayer resides

minus

- 2) the taxpayer's expected contribution amount

(see 26 USC § 36B, 26 CFR § 1.36B-3).

The taxpayer's expected contribution amount is the amount that the taxpayer is expected to spend on health insurance premiums. The expected contribution is set by Federal law at 2% to 9.5% of annual household income (26 USC § 36B(b)(3)(A)).

For annual household income in the range of at least 150% but less than 200% of the Federal poverty level (FPL), the expected contribution is between 4% and 6.3% of the household income (see 26 CFR § 1.36B-3(g)(2), 45 CFR § 155.300(a)).

In an analysis of APTC eligibility, the determination is based on the FPL "for the benefit year for which coverage is requested (45 CFR § 155.305(f)(1)(i)). On the date of your application, that was the 2013 FPL, which is \$11,490.00 for a one-person household (78 Fed. Reg. 5182, 5183).

Cost-sharing reductions (CSR) are available to a person who (1) is eligible to enroll in a QHP through the Marketplace, (2) meets the requirements to receive advanced premium tax credits, (3) is expected to have an annual household income that does not exceed 250% of the FPL for the plan year coverage is requested and (4) is enrolled in a silver-level qualified health plan (QHP) (45 CFR § 155.305(g)(1)).

Medicaid can be provided through the Marketplace to adults who: (1) Are age 19 or older and under age 65; (2) Are not pregnant; (3) Are not entitled to or enrolled for Medicare benefits under part A or B of title XVIII of the Act; (4) Are not otherwise eligible for and enrolled for mandatory coverage under a State's Medicaid State plan in accordance with subpart B of this part; and (5) Have a household modified adjusted gross income that is at or below 138% of the federal poverty for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)), N.Y. Soc. Serv. Law § 366(1)(b)).

In an analysis of Medicaid eligibility, the determination is based on the FPL “for the applicable budget period used to determine an individual's eligibility” (42 CFR § 435.4). On the date of your application, that was the 2014 FPL, which is \$11,670.00 for a one-person household (79 Fed. Reg. 3593, 3593).

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size (42 CFR § 435.603(h)(1); State Plan Amendment (SPA) 13-0055-MM3, as approved March 19, 2014).

## **Legal Analysis**

The first issue is whether the Marketplace properly determined that you were eligible for an advance premium tax credit of up to \$262.00 per month.

In the application that was submitted on August 25, 2014, you attested to an expected yearly income of \$22,000.00, and the eligibility determination relied upon that information.

According to the record you are the only person in your tax household.

You reside in Kings County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$370.52 per month.

An annual income of \$22,000.00 is 191.47% of the 2013 FPL for a one-person household. At 191.47% of the FPL, the expected contribution to the cost of the health insurance premium is 5.91% of income, or \$108.35 per month.

The maximum amount of APTC that can be authorized equals the cost of the second lowest cost silver plan in your county (\$370.52 per month) minus your expected contribution (\$108.35 per month), which equals \$262.17 per month. Therefore, computing to the nearest dollar, the Marketplace correctly computed your advance premium tax credit to be \$262.00 per month.

CSR are available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$22,000.00 is 191.47% of the

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2013 FPL, the Marketplace correctly found you to be eligible for cost-sharing reductions.

Medicaid can be provided through the Marketplace to adults between the ages of 19 and 65 who meet the non-financial requirements and have a household modified adjusted gross income that is at or below 138% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$11,670.00 for a one-person household. Since \$22,000.00 is 188.52% of the 2014 FPL, the Marketplace properly found you to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

Since the August 26, 2014 determination properly stated that, based on the information you provided, you were eligible for APTC of up to \$262.00 per month, eligible for cost-sharing reductions, and not eligible for Medicaid, it is correct and is AFFIRMED.

However, additional evidence provided on appeal indicates that the information contained on your application no longer reflects your current income situation.

You credibly testified that the only income you received during August 2014, the month during which you submitted your application, was \$1,600.00. You further testified that you had not received any income since August 2014 and did not expect to have any income for the month of September 2014.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size. To be eligible for Medicaid, you would need to meet the non-financial criteria and have an income no greater than 138% of the FPL which is \$1,343.00 per month. Since your income for August 2014 was \$1,600.00, you did not qualify for Medicaid on the basis of monthly income when you submitted your initial or revised applications.

However, you credibly testified that your last day of employment was August 8, 2014; that as of the date of hearing (September 22, 2014), you did not have any source of income; and that for the month of September 2014 your expected income was \$0.

Therefore, based on this new evidence the case is returned to the Marketplace to redetermine your eligibility for a one-person household in Kings County with an attested September 2014 monthly income of \$0.00.

## **Decision**

The August 26, 2014 eligibility determination is AFFIRMED.

This case is returned to the Marketplace to redetermine eligibility for a one-person household in Kings County with an attested September 2014 income of \$0.00

**Effective Date of this Decision:** December 16, 2014

## **How this Decision Affects Your Eligibility**

You remain eligible for an advance premium tax credit of up to \$262.00 per month and cost-sharing reductions.

Your case is returned to the Marketplace for a redetermination of your eligibility, using a one-person household and an attested September 2014 of \$0.00.

## **If You Disagree with this Decision (Appeal Rights)**

This Decision is final unless you submit an appeal request to U.S. Department of Health and Human Services or bring a lawsuit under New York Civil Practice Law and Rules, Article 78.

If you do not agree with this Decision, you have the right to appeal outside the Marketplace and may:

- Make an appeal request to the U.S. Department of Health and Human Services appeals entity within 30 days of the date of the Decision Date, which appears on the first page of the Decision (45 CFR § 155.520(c)).

AND/OR

- Bring a lawsuit in state court in accordance with Article 78 of the Civil Practice Law and Rules within four months after the date of the Decision Date, which appears on the first page of the Decision.

If you wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services for assistance.

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## **If You Have Questions about this Decision (Customer Service Resources):**

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:  
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- By fax: 1-855-900-5557

## **Summary**

The August 26, 2014 eligibility determination is AFFIRMED.

You remain eligible for an advance premium tax credit of up to \$262.00 per month and cost sharing reductions.

Your case is returned to the Marketplace for a redetermination of your eligibility, using a one-person household and an attested September 2014 income of \$0.00.

## **Legal Authority**

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(a).

**A Copy of this Decision Has Been Provided To:**

[REDACTED]  
[REDACTED] [REDACTED] [REDACTED]  
[REDACTED]  
[REDACTED]